

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WP(C).No. 7035 of 2007(K)

STC.949/2005 of J.M.F.C.,VADAKKANCHERRY
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PETITIONER:

E.R. FRANCIS, S/O. E.K. RAPPAI
IDAKKALATHUR HOUSE, PERINGANDOOR VILLAGE
THRISSUR DIST.

BY ADV. SRI.CIBI THOMAS

RESPONDENTS:

1. NALINI RAJAN, W/O. RAJAN,
MANIYERI HOUSE, KAKKAYANGAD
NOW RESIDING AT CHANDROTH HOUSE
P.O. MUZHAKUNNU, KANNUR DIST.

2. STATE OF KERALA, REP. BY CHIEF SECRETARY
SECRETARIAT, THIRUVANANTHAPURAM.

R2 BY GOVT. PLEADER SRI. S.U. NAZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R. BASANT, J.

W.P.C.No. 7035 of 2007 K

Dated this the 1st day of March, 2007

ORDER

The short contention of the petitioner, who is the complainant in a prosecution under Section 138 of the N.I. Act, is that though his complaint was filed as early as in 2004 and there is no order of stay in force now, the learned Magistrate has unnecessarily adjourned the case from 23.1.07 to 30.6.07. This was done even after the learned Magistrate was apprised that the stay order which was in force earlier has since been vacated. The counsel prays that there may be a direction in favour of the petitioner to the learned Magistrate to dispose of the case expeditiously.

2. The prosecution under Section 138 of the N.I. Act has been initiated as early as in 2004. The soul of Section 138 of the Act will be lost, defeated and frustrated if there is no expeditious disposal of the case. I am in agreement with the learned counsel for the petitioner that the learned Magistrate must imbibe the sense of expedition to dispose of a prosecution under Section 138 of the Act expeditiously. It is submitted that the case was adjourned on

23.1.2007 against the specific request made by the petitioner. I need only observe that it shall be open to the petitioner to move the learned Magistrate for advancement of case and for early disposal of the same. The learned Magistrate must consider such application in accordance with law, on merits and with sympathy, considering the fact that this prosecution has been pending for about three years.

3. With the above observations this writ petition is dismissed.

4. Hand over copy of the judgment to the learned counsel for the petitioner for production before the learned Magistrate.

(R. BASANT)
Judge

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